Oregon

PUBLIC
UTILITY
COMMISSION

April 28, 1997

THE HONORABLE JOHN D DINGELL, RANKING MEMBER
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564 FORD HOUSE OFFICE BUILDING
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON DC 20515

RE: Responses to questions regarding the electric utility industry.

Your letter of April 10, 1997, requested responses to certain questions regarding the electric utility industry. Provided below is our response to your inquiry.

1. Neither the Commission nor our Legislature has adopted retail competition. The Commission has before it an application by an electric utility to allow larger customers to purchase a portion of their power supplies in a competitive environment. This application is still under review.

   The Legislature has several bills before it that would permit open access to power supplies. All of the bills are under review and it is uncertain at this time if a restructuring bill will pass in this legislative session.

   Since no retail competition is occurring, we can offer no observations as to its effect on consumer prices.

2. We have not sought any Congressional action in these areas. Generally, we prefer to address these issues at the state level, since our citizens are closest to the issues under review. Oregon has some of the lowest electricity rates in the nation and would very much prefer that the Federal government not prescribe solutions to problems that may be significant elsewhere, but that can be addressed as necessary at the state level here.

3. Although not tested in the courts, it appears that the Commission's broad authority to set reasonable rates would enable decisions regarding stranded costs under current statutes. Bills under consideration by the current Legislature would further define that authority. We do not anticipate any need for Congressional actions with respect to the resolution of stranded cost issues.

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4. Whatever authority is necessary to address restructuring issues can come from our Legislature, in response to any federal legislation.

5. (a) Yes. Congress' preemptively imposing retail competition on states, and thereby taking over a role previously reserved for states, would raise both 10th Amendment and Commerce Clause issues.

   (b) Yes. This approach would involve the same two issues, but as a practical matter, probably no state would challenge such a requirement because the states would retain authority to determine if retail competition is in its consumers' best interest.

6. First, we think reasonable retail competition laws passed by states should be grand-fathered. Lacking such, if the federal legislation is preemptive to the states authority, revisions of state laws would be required. This would be somewhat time consuming. In addition, rules adopted by regulatory commissions may require revisions. Finally, as a practical matter, customer expectations may be disrupted some. Without having a specific situation as a reference point, however, it is conjectural as to whether these would be large or small issues.

7. (a) We are aware of no such studies. We do have market-based rates, and these rates are generally applicable to competitive situations facing larger customers. The basis of these rates, however, is to retain these customers. If these customers were to be lost, all related sales revenues would be lost and rates for remaining customers would rise.

   (b) Rates for the two largest Oregon utilities are reflected in the enclosed charts. The historical relationship between residential and industrial rates can be obtained by observing data on each respective chart captioned "nominal price." For example, PGE's industrial rates for the 1987-1995 period were in the range of about 70-83 percent of residential rates. For PacifiCorp, industrial rates were in the range of about 70 - 77 percent of residential rates.

   The Commission does not allow rate subsidies. Rates are based on cost of service. The primary reason that industrial rates have become a somewhat smaller percentage of residential rates is based on the fact that industrial rates had been generally set too high relative to costs. The Commission has sought to correct this situation over the 1987-1995 period.

8. The enclosed charts also show rate trends, both in nominal and real terms (1987 dollars).

9. If electric industry restructuring is pursued, it must be on the basis that the market sets prices for competitive services and regulation continues for monopolistic services. For generation services, an argument could be made to deregulate these prices, providing

that there are adequate safeguards in areas such as consumer protection. For the other two aspects of electricity service, transmission and distribution, regulatory oversight must be maintained as monopoly markets will continue and abuses would occur without regulation.

If a policy of "eliminating" state authority means only to apply to the generation services market, then that can be accomplished to a large extent in the area of price regulation. But consumer protections and maintenance of reliable service for a service as essential as electricity would appear to be necessary in any restructured generation services market.

Continued state regulation for the monopoly distribution service must remain. Ratepayers will be adversely affected otherwise in a least three ways. First, they will be at the mercy of monopoly pricing as there will be no competing providers of local poles, wires, transformers, substations, etc. Second, if "deregulation" of distribution were to be pursued, unnecessary and wasteful duplication of investment in infrastructure would occur. And third, and perhaps most important, duplicate infrastructure facilities in poles, wires, transformers, etc., present safety hazards to the public. State safety oversight would be imperative and diminish some if there are competing and duplicative facilities to continually review.

We are not sure how to respond to your last two questions under this item.

10. We will have to defer to those states that have adopted retail competition regarding their experience with the issue of state reciprocity. The bills introduced in our Legislature have reciprocity provisions with respect to utility competition within the state. As a general matter, if the general level of generation services prices fall, there will be more pressure on states to allow power supply competition and thus reciprocate in the offering of open access programs.

11. The decision as to "unbundling" should be left to the states. Our Legislature is assessing this issue in its activities. The sentiment at this time is to require functional unbundling of services, although no final decision has been made. Actions beyond functional unbundling (divestiture, etc.) should not be prescribed at this time.

12. Public power and federal power are both very prevalent in our area. The most unique issue pertaining to public power is one of local control. These entities believe that retail competition decisions should be reserved for the local boards and not mandated by other governmental authorities.

- Federal power issues relating to the Bonneville Power Administration involve, essentially, issues of access to federal power – who should get access to such power and on what terms? Federal law should be changed so that all parties have equal access to such power.

13. If the date is after January 1, 2000, and the "mandate" issued this year, we would likely not have significant problems in addressing this issue. In our judgment, any mandate should give state authorities time to respond effectively. We suggest three years from when any mandate is issued to the desired completion date for implementing open access.

14. Our Legislature has a securitization bill before it. The Commission has not taken a position on the bill, but may not oppose it if it is properly structured and discretionary.

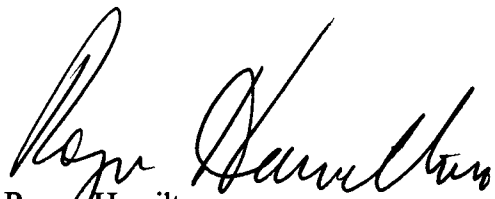
    There are potential risks and rewards with securitization. The rewards are possible lower costs of financing any stranded assets. The risks involve assumption by customers of a funding obligation to pay a stream of revenues associated with the assets that were part of a securitization process. We have not yet concluded whether the rewards would outweigh the risks. The Commission has approved certain securitization measures for one utility regarding certain regulatory assets (investments in conservation).

15. (a) We believe that PUHCA is probably a mild impediment to competition, but that its existence, or absence, will not be a major determinant of the future course of competition in the electricity industry.

    (b) We do not have a strong opinion regarding the need to modify or repeal PUHCA. Existing Oregon law gives us the ability to protect Oregon electric customers from possible harms addressed by PUHCA. Thus, although we are not opposed to the continued existence of PUHCA, we do not consider PUHCA to be an essential protection for Oregon electric customers.

    (c) We have no opinion on this matter.

We hope that this is responsive to your request. If you require any follow-up, please contact me or Bill Warren at (503) 378-6053.



Roger Hamilton
Chairman

mh/f/warren/letter/dingeltr.

cc: The Honorable Elizabeth Furse, Member, Committee on Commerce